



CITY OF  
**JOHN DAY**

## **CITY COUNCIL MEETING AGENDA**

**Tuesday April 8, 2025**

**REGULAR MEETING: 6:30 pm**

**John Day Fire Station**

**316 S Canyon Blvd, John Day, OR 97845**

**(541)575-0028** [www.cityofjohnday.com](http://www.cityofjohnday.com)

*This meeting is open to the public. This agenda includes a list of the principal subjects anticipated to be considered at the meeting. However, the agenda does not limit the ability of the Council to consider additional subjects. Meetings may be canceled without notice. Zoom Meeting participants should use the "raise your hand" feature during these times to alert the moderator that they would like to speak.*

### **Join Zoom Meeting**

City of John Day is inviting you to a scheduled Zoom meeting.

<https://zoom.us/j/95867942253?pwd=dHE5c3djSEx4OFBuZndPQU5HMGN3QT09>

Meeting ID: 958 6794 2253

Passcode: 776959

### **Call to Order: Regular John Day Council Meeting 6:30 pm.**

1. Call John Day City Council Meeting to Order
2. Pledge of Allegiance
3. Roll Call
4. Amend or Accept Regular Agenda

### **5. Public Comments (*Please Limit to 3 Minutes*)**

*Public Comments are an opportunity to present information or speak on an issue that is not on the agenda. Comments are limited to 3 minutes for each person. Visitors may state their comments and should not expect the council to engage in back and forth dialogue regarding the comment, council may either choose to add it to a follow up meeting or direct City Manager to follow up with the speaker.*

### **6. Consent Agenda**

*All matters listed within the Consent Agenda have been distributed to every member of the City Council for reading and study, are considered routine, and will be enacted by one motion of the Council. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by request.*

- a. AP through 3-27-25
- b. Minutes of 3-11-25 & 3-25-25
- c. Budget Committee Appointments: 4-year term to expire Jan 2029
  1. Louis Provencher
  2. Meloni Cochran

7. Planning Commission Appointment: Linda Pifer
8. April 18 “Two Lights” event – Rick LaMountain
9. Purchase and Sale Agreement – ~24 acres Industrial Land
10. Appeal of SDC charges for 27499 La Costa Rd.
11. City Manager Comments:
12. Mayor and Council Comments
13. Adjournment: Next Regular Meeting **April 22, 2025**  
**Finance Overview Workshop: April 22, 2025 (before regular CC meeting)**

Report Criteria:

Report type: Invoice detail

Check Type = {<>} "Adjustment"

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Invoice GL Account	Invoice Amount	Check Amount
<b>ACS - ADVANCED CONTROL SYSTEMS</b>							
03/27/2025	760111	1013	ACS - ADVANCED CONTROL SYSTEM	40266	02-000-63825	415.00	415.00
Total 760111:							415.00
<b>AMAZON CAPITAL SERVICES, INC.</b>							
03/27/2025	760112	1026	AMAZON CAPITAL SERVICES, INC.	1Q3P-DMHQ-	01-000-63800	32.79	32.79
Total 760112:							32.79
<b>BOX R WATER ANALYSIS</b>							
03/27/2025	760113	1062	BOX R WATER ANALYSIS	X061402	02-000-64100	211.60	211.60
Total 760113:							211.60
<b>CIVICPLUS LLC</b>							
03/27/2025	760114	1108	CIVICPLUS LLC	318670	01-000-62650	2,487.03	2,487.03
03/27/2025	760114	1108	CIVICPLUS LLC	318882	01-000-64000	550.00	550.00
Total 760114:							3,037.03
<b>CNA SURETY DIRECT BILL</b>							
03/27/2025	760115	1112	CNA SURETY DIRECT BILL	CNA MARCH	01-000-63300	100.00	100.00
Total 760115:							100.00
<b>CwM-H20, LLC</b>							
03/27/2025	760116	1125	CwM-H20, LLC	2799	03-000-66230	800.00	800.00
Total 760116:							800.00
<b>ED STAUB &amp; SONS PROPANE</b>							
03/27/2025	760117	1168	ED STAUB & SONS PROPANE	CL350706	26-050-63100	372.27	372.27
Total 760117:							372.27
<b>GRANT-HARNEY TRAINING ASSOC.</b>							
03/27/2025	760118	1222	GRANT-HARNEY TRAINING ASSOC.	20364-0325	01-050-64450	160.00	160.00
Total 760118:							160.00
<b>LANE COUNCIL OF GOVERNMENTS</b>							
03/27/2025	760119	1314	LANE COUNCIL OF GOVERNMENTS	97145	10-000-63825	1,909.00	1,909.00
Total 760119:							1,909.00
<b>SAULS CONTRACTING DBA</b>							
03/27/2025	760120	1732	SAULS CONTRACTING DBA	1007	03-000-62500	2,508.00	2,508.00
Total 760120:							2,508.00
<b>TEC COPIER SYSTEMS LLC</b>							
03/27/2025	760121	1500	TEC COPIER SYSTEMS LLC	219746	06-000-62900	92.82	92.82

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Invoice GL Account	Invoice Amount	Check Amount
Total 760121:							92.82
<b>USA BLUEBOOK</b>							
03/27/2025	760122	1534	USA BLUEBOOK	INV00647212	03-000-63400	8.19	8.19
03/27/2025	760122	1534	USA BLUEBOOK	INV00657594	03-000-63400	358.09	358.09
03/27/2025	760122	1534	USA BLUEBOOK	INV00660739	03-000-63400	24.40	24.40
Total 760122:							390.68
<b>VERIZON</b>							
03/27/2025	760123	1538	VERIZON	6108100664	02-000-64798	214.56	214.56
Total 760123:							214.56
<b>WILSON'S WELDING &amp; FABRICATION</b>							
03/27/2025	760124	1552	WILSON'S WELDING & FABRICATION	32636	03-000-62500	25.78	25.78
Total 760124:							25.78
<b>ZWYGART JOHN &amp; ASSOC CPAS PLLC</b>							
03/27/2025	760125	1737	ZWYGART JOHN & ASSOC CPAS PLL	12751	06-000-63825	18,000.00	18,000.00
Total 760125:							18,000.00
Grand Totals:							28,269.53

Summary by General Ledger Account Number

GL Account	Debit	Credit	Proof
01-000-20000	.00	8,800.51-	8,800.51-
01-000-62650	2,487.03	.00	2,487.03
01-000-62900	27.84	.00	27.84
01-000-63300	100.00	.00	100.00
01-000-63800	32.79	.00	32.79
01-000-63825	5,400.00	.00	5,400.00
01-000-64000	550.00	.00	550.00
01-050-64450	160.00	.00	160.00
01-050-64798	42.85	.00	42.85
02-000-20000	.00	5,975.80-	5,975.80-
02-000-62900	27.84	.00	27.84
02-000-63825	5,607.50	.00	5,607.50
02-000-64100	211.60	.00	211.60
02-000-64798	128.86	.00	128.86
03-000-20000	.00	9,402.65-	9,402.65-
03-000-62500	2,561.62	.00	2,561.62
03-000-63400	390.68	.00	390.68
03-000-63450	5,607.50	.00	5,607.50
03-000-64301	42.85	.00	42.85
03-000-66230	800.00	.00	800.00
06-000-20000	.00	1,809.30-	1,809.30-
06-000-62900	9.30	.00	9.30
06-000-63825	1,800.00	.00	1,800.00
10-000-20000	.00	1,909.00-	1,909.00-



**CITY OF JOHN DAY  
CITY COUNCIL MINUTES MARCH 11, 2025**

**COUCILORS PRESENT:**

Sherrie Riningger, Mayor  
Chris Labhart, Councilor  
Eric Bush, Council President  
Bradley Hale, Councilor  
Ron Phillips, Councilor  
Vern Pifer, Councilor  
Heather Swank, Councilor

**COUNCILORS ABSENT**

**STAFF PRESENT:**

Melissa Bethel, City Manager

**Agenda Item No. 1—Call Meeting to Order**

The City Council meeting was called to order at 6:30 pm.

**Agenda Item No. 2—Pledge of Allegiance**

The City Council stood for the Pledge of Allegiance.

**Agenda Item No. 3—Roll Call and Attendance**

All councilors were present.

**Agenda Item No. 4—Amend or Accept Regular Agenda**

***Councilor Bush moved to accept the agenda as published. The motion was seconded by Councilor Swank and passed unanimously.***

**Agenda Item No. 5—Public Comments**

Ryan McNab: He asked Council to tell our representatives to stop the firing of federal employees.

Heather Rookstool: Rookstool brought up the lighting on 7<sup>th</sup> street and would like to thank Bethel for reaching out to her regarding that. She believes Council is moving in the right direction by not worrying about the charter right now because there are bigger things to worry about.

**Agenda Item No. 6—Consent Agenda**

- a. Accounts Payable through 2-27-25
- b. Minutes of 2-25-25
- c. FY 25-26 Budget Calendar

Councilor Hale would like to remove Accounts Payable through 2-27-25 to discuss it further.

***Councilor Hale made a motion to approve the consent agenda as amended. The motion was seconded by Councilor Pifer and passed unanimously.***

Councilor Hale had concerns regarding how much the City is paying Lane Council of Governments. Bethel stated that's the planning cost to Henry who is our contract planner. They offer planning services to rural communities for less than what you would pay for an actual planner.

***Councilor Labhart made a motion to approve the Accounts Payable through 2-27-25. The motion was seconded by Councilor Hale and passed unanimously.***

**Agenda Item No. 7—Approval of Contract with Dyer Engineering for Engineer of Record**

- a. Introduction of Aaron Speakman of Dyer Engineering  
Speakman stated their goal is to work with Bethel to represent the City by providing all of their comments directly to the City.

***Councilor Labhart made a motion to approve the contract with Dyer Engineering for Engineer of Record subject to legal review. The motion was seconded by Councilor Phillips and passed unanimously.***

**Agenda Item No. 8—Status Update on 2023 audit—John Russell, CPA Zwygart John & Associates CPAs, PLLC**

Russel is one of the audit partners at Zwygart John & Associates. At the end of September, they worked with the City's grant administrator to close out the solar grant. Some of the issues has been getting documents and records. The last piece of information they are looking for is evidence in accounts receivable accounts payable balances.

**Agenda Item No. 9—Approval of Ordinance No. 25-01; Franchise Agreement with Oregon Telephone (Rally Networks)**

***Councilor Labhart made a motion to read Ordinance No. 25-01 by title only. The motion was seconded by Councilor Bush and passed unanimously.***

***Councilor Labhart made a motion to approve Ordinance No. 25-01. The motion was seconded by Councilor Bush and passed unanimously.***

**Agenda Item No. 10—Discussion and/or approval of a Strategic Planning Firm**

The Council was given a report that presents comparative analysis of three strategic planning options. Council gave Bethel direction to reach out to both firms and ask them for a scope of work regarding 5-year plan, community engagement and cost in addition to what they proposed.

**Agenda Item No. 11—City Manager Comments**

Bethel stated the City still needs budget and planning commission members. Council did a Goal Setting work session they all believe it went very well. Every Councilor discussed what their priorities are for next year.

**Agenda Item No. 12—Mayor and Council Comments**

Councilor Rininger stated the next Council meeting is going to be a really important one. There will be an open house before the meeting on 3/25/25 regarding the Wastewater Treatment Plant. The public will be able to come in and ask any questions they may have.

**Adjourn:**

There being no further business before council the meeting was adjourned.

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Melissa Bethel, CM



**CITY OF JOHN DAY  
CITY COUNCIL MINUTES MARCH 25, 2025**

**COUCILORS PRESENT:**

Sherrie Riningger, Mayor  
Chris Labhart, Councilor  
Eric Bush, Council President  
Bradley Hale, Councilor  
Ron Phillips, Councilor  
Vern Pifer, Councilor  
Heather Swank, Councilor

**COUNCILORS ABSENT**

**STAFF PRESENT:**

Melissa Bethel, City Manager  
Rob Gaslin, Contract Finance  
Nick Ducote, Contract grant writer and administrator

**Agenda Item No. 1—Call Meeting to Order**

The City Council meeting was called to order at 6:30 pm.

**Agenda Item No. 2—Pledge of Allegiance**

The City Council stood for the Pledge of Allegiance.

**Agenda Item No. 3—Roll Call and Attendance**

All councilors were present.

**Agenda Item No. 4—Amend or Accept Regular Agenda**

Councilor would like to add 2 items to the agenda. One being putting up video camera at the rest area. The next one being discussing regarding water credits.

***Councilor Labhart moved to accept the agenda with those two additions. The motion was seconded by Councilor Phillips and passed unanimously.***

**Agenda Item No. 5—Public Comments**

Katy Nelson: She said if the Council desires to form an Arts Commission she would like to apply to serve. She is on the board of directors for Juniper Arts and volunteers at Painted Sky.

**Agenda Item No. 6—Consent Agenda**

- a. Accounts Payable through 3-13-25
- b. Minutes of 3-11-25 (will be available 4/8/25)

***Councilor Bush made a motion to approve the consent agenda as presented. The motion was seconded by Councilor Pifer and passed unanimously.***

**Agenda Item No. 7—Resolution 25-01: A resolution of the City of John Day approving the sale and transfer of certain city owned industrial property under Ordinance No. 21-192-03**

This is a piece of Industrial Property that the City owns. Council was approached by an individual who has a grant to construct a USDA certified processing plant.

***Councilor Hale made a motion to accept Resolution 25-01 as presented. The motion was seconded by Councilor Labhart and passed unanimously.***

**Agenda Item No. 8—Discussion and/or approval of a Strategic Planning Firm**

Bethel reached out to different Strategic Planning Firms. She is encouraging Council to pick a firm they want to go with that way they can start negotiating the scope of work.

***Councilor Bush made a motion to approve Jensen Strategies as the consulting firm for Strategic Planning for the City of John Day. The motion was seconded by Councilor Pifer and passed 5-2 with Councilor Labhart and Councilor Hale being opposed.***

**Agenda Item No. 9—Financial Update**

Gaslin presented a budget to actual report to Council.

**Agenda Item No. 10—Wastewater Plant Presentation**

Ducote gave a presentation on the Wastewater Plant. Construction funding applications with the state, federal government and DEQ-CWSRF were applied for in February 2025. The first few months of Final Design Engineering are complete. The Rate Study is complete and the Rate Resolutions were adopted by Canyon City and John Day.

Flagline Engineering showed a 3D video of what the Wastewater Plant will potentially look like.

**Agenda Item No. 11—Approve award of Pre-Purchase Package #1 UV Disinfection System Equipment to Xylem Water Solutions, Inc**

The total proposal price for the UV Disinfection System Equipment is \$503,727. The equipment will be purchased using Community Development Block Grant with funding already secured and required to be expended by August 2025.

***Councilor Bush made a motion to accept the proposal from Xylem Water Solutions, Inc for the UV Disinfection System Equipment for \$503,727. The motion was seconded by Councilor Phillips and passed unanimously.***

**Agenda Item No. 12—Approve award of Pre-Purchase Package #2 Headworks Screen Equipment to Kusters Water**

The total proposal price for the Headworks Screen Equipment is \$161,817. The equipment will be purchased using Community Development Block Grant with funding already secured and required to be expended by August 2025.

***Councilor Labhart made a motion to approve the award of Pre-Purchase #2 Headworks Screen Equipment to Kusters Water in the amount of \$161,817. The motion was seconded by Councilor Swank and passed unanimously.***

**Agenda Item No. 13—Video Cameras at Rest Area**

Councilor Labhart saw photos that had been taken at the rest area on Main Street and suggests getting video cameras put up because of the conditions they are being left in.

**Agenda Item No. 14—Water Credit**

Councilor Labhart said in past practices the City would give a small credit to the water users in the City that keep their water dripping to prevent freezing. Bethel stated this wasn't done last year and asked



how they would distinguish who is letting their water run and who isn't. Also, some federal funds don't let you subsidize your bills.

**Agenda Item No. 13—City Manager Comments**

Bethel thanked all of the Engineers and Consultants for showing up as well as Gaslin and Ducote.

**Agenda Item No. 14—Mayor and Council Comments**

Councilor Phillips was very enlightened by the open house and wanted to thank Bethel for setting it up.

Councilor Bush wanted address how the City's digital records are managed and would like to see those become more organized.

**Adjourn:**

There being no further business before council the meeting was adjourned.

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Melissa Bethel, CM



# CITY OF JOHN DAY

## Application for Boards/Commission

### Contact Information

Name:	Louis E Provencher
Street Address:	
Mailing Address:	John Day, OR 97845
City/State/Zip Code:	
Home Phone:	
Work Phone:	N/A
E-Mail Address:	leprovencher@ortelco.net

### Background

Years of Residence in John Day:	32 plus years
Place of Employment:	Retired US Forest Service
Occupation:	Forest Management
Educational Background:	A.S. Forest Management Technology 33 plus years of continuous training through US Forest Service and other training vendors.
Prior Civic Activities:	*John Day City Councilor 11/19/2014 thru 12/31/2016 *John Day City Budget Committee 3/12/2013 thru 11/18/2014. * Served as an EMT in Halfway, Oregon and Tiller, Oregon. *Served as Chairman and/or Merchandise Chairman for Grant County's Ducks Unlimited Chapter for approximately 14 plus years. *Currently serve on the Grant County Road Advisory Committee and County Compensation Board.

### Boards/Commissions of Interest

Please check all of the following Boards/Commissions that interest you:

- ☐ City Council
- ☒ Budget Committee
- ☐ Planning Commission

### Special Skills or Qualifications

Summarize any special training, skills or experience you may have pertinent to the Board/Commission to which you are applying.

Served the City of John Day on their Budget Committee and as a City Councilor. Served in several positions with the US Forest Service the last being the Lead Grants and Agreements Specialist (Certified Level II) for Region 6 with primary responsibilities for the 3 Blue Mountain National Forest. Served as a District Ranger, and Ranger District Management Assistant in roles such as Environmental Coordinator, Timber Management Assistant, Access Travel Management Administrator, Heritage Program Management, Geographic Information Serving Program Manager, Vegetation Program Manager, etc. Participated in several development sessions such as: Patricia Wood Congressional Seminar, Leadership Development Modules (3), Leadership for the 90's, Business Law, Timber Sale Contract Law, Federal Budget Courses, Grants & Agreements, etc.

### Motivation

Discuss your motivation for serving on this Board/Commission.

I have been encouraged by several John Day and Grant County residents to seek and apply for one of several leadership positions. More importantly, strive to ensure residents of John Day as well as the larger Grant County community are heard and provided representation addressing their concerns. Assist with the current and future needs and desires of the residents within the laws, regulations, policies and available finances. Assist providing the necessary guidance and policies for a safe, healthy and successful city environment. Strive to restore confidence and trust of the people for the city's management team. Note: Have participated in the League of Oregon Cities Councilor training.

### Special Notice

Please be advised that members of the City Council and Planning Commission are required to file an annual **Statement of Economic Interest** with the State of Oregon. A sample reporting form is available from the Administration Office at John Day City Hall indicating the type of information you will be required to disclose if you are appointed.

### Agreement and Signature

By submitting this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal.

Name (printed) Louis E Provencher

Signature

Date 3-04-2025

### Our Policy

It is the policy of the City of John Day to provide equal opportunities without regard to race, color, religion, national origin, gender, sexual preference, age, or disability. The City of John Day accepts applications from potential board/commission members throughout the year and will hold applications until vacancies exist on specific boards/commissions.

Thank you for completing this application form and for your interest in volunteering with us.



# CITY OF JOHN DAY

RECEIVED  
MAR 20 2025  
CITY OF JOHN DAY

## Application for Boards/Commission

### Contact Information

Name:	Meloni Cochran
Street Address:	
Mailing Address:	
City/State/Zip Code:	John Day OR 97845
Home Phone:	
Work Phone:	
E-Mail Address:	

### Background

Years of Residence in John Day:	6 yrs
Place of Employment:	retired
Occupation:	Agriculture - Business - Administrative Assistant Kone Pine Irrigation Dist
Educational Background:	Linn-Benton Community College - Criminal Justice / Business Oregon State University - Business / Clerical
Prior Civic Activities:	Past Secretary Grant County Republican Central Committee Co-Founder / Vice Pres. Grant County Republican Women Member First Baptist Church - John Day Board Member Grant County Senior Citizens Association Please see attachment

### Boards/Commissions of Interest

Please check all of the following Boards/Commissions that interest you:

- ☐ City Council
- ☒ Budget Committee
- ☐ Planning Commission

### Special Skills or Qualifications

Summarize any special training, skills or experience you may have pertinent to the Board/Commission to which you are applying.

### Motivation

Discuss your motivation for serving on this Board/Commission.

Please see Attachment.

### Special Notice

Please be advised that members of the City Council and Planning Commission are required to file an annual **Statement of Economic Interest** with the State of Oregon. A sample reporting form is available from the Administration Office at John Day City Hall indicating the type of information you will be required to disclose if you are appointed.

### Agreement and Signature

By submitting this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal.

Name (printed)

Meloni Cochran

Signature

Date

3/21/25

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Thank you for completing this application form and for your interest in volunteering with us.

## **List of Professional/Business/Volunteer Affiliations**

- **Member First Baptist Church John Day OR**
- **Grant County Senior Citizens Association – Board Member**
- **Grant County Republican Central Committee – Past Secretary, current Precinct Committee Person John Day Valley #3.**
- **Grant County Republican Woman – Co-founder, Acting Vice-President.**
- **Lone Pine Irrigation District – Administrative Assistant Board of Directors, Terrebonne OR**
- **Owner/Operator Cochran and Cochran Registered Herefords and Certified Grass Seeds Farms. – Brownsville OR**
- **Linn – Benton Community College – Criminal Justice/Business**
- **Oregon State University – Business**

**I have experience with financial statements, operating budgets, navigating State and Federal regulations, taxes, payroll, and communications.**

**I am a past member of the International Order of Rainbow for Girls and International Order of Eastern Star. My membership gave me the opportunity to serve the community with a focus on Shriner's Hospital for Children.**

**Heather Swank informed me the city needed people to serve on the budget committee. I love John Day and Grant County and would consider it an honor to be of service. My intention is to offer my experience to be of service and help my community.**

**I am looking forward to your consideration of my application.**

**Sincerely,  
Meloni Cochran**



## Application for Boards/Commission

### Contact Information

Name:

Linda Pifer

Street Address:

Mailing Address:

City/State/Zip Code:

John Day, OR 97845

Home Phone:

Cell

Work Phone:

E-Mail Address:

### Background

Years of Residence in John Day:

1.5

Place of Employment:

retired

Occupation:

Educational Background:

High School Diploma - Burns, OR  
Some College - Central OR Community College  
Bend, OR

Prior Civic Activities:

Elementary School Classroom Aid - volunteer, Redmond  
Church Board - Redmond  
Pregnancy Resource Center, Prineville - volunteer  
Senior Center Board - John Day

### Boards/Commissions of Interest

Please check all of the following Boards/Commissions that interest you:

☐ City Council

☒ Budget Committee

☒ Planning Commission

### Special Skills or Qualifications

Summarize any special training, skills or experience you may have pertinent to the Board/Commission to which you are applying.

Co-owned small business w/husband, assisted in financial/budget/operations  
Church Board - work as a team to decide financial issues, plans.  
Home - have been renters, owners, landlords, + homeless - understand  
Personal finances - create + follow/modify budget, build savings

### Motivation

Discuss your motivation for serving on this Board/Commission.

I care about our community, city + county. Using the citizen's resources wisely while working toward plans for growth + development.

### Special Notice

Please be advised that members of the City Council and Planning Commission are required to file an annual **Statement of Economic Interest** with the State of Oregon. A sample reporting form is available from the Administration Office at John Day City Hall indicating the type of information you will be required to disclose if you are appointed.

### Agreement and Signature

By submitting this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal.

Name (printed)

Linda K Pifer

Signature

XXXXXXXXXXXXXXXXXX

Date

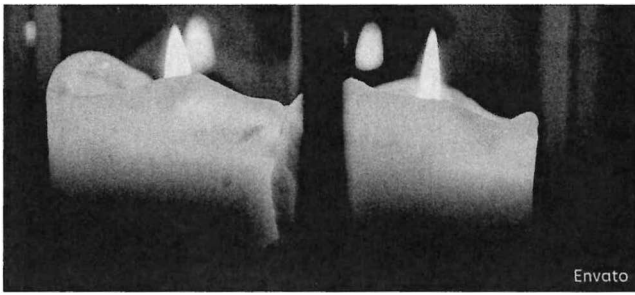
3-19-2025

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Thank you for completing this application form and for your interest in volunteering with us.





## April 'Two Lights' event kicks off America250

On July 4, 2026, the United States will celebrate the 250th anniversary of the signing of the Declaration of Independence. A nationwide initiative called America 250, led by the U.S. Semiquincentennial Commission, wants to engage, educate and unite Americans for this historic birthday.

The celebration kicks off this month with "Two Lights for Tomorrow." The commission is calling for two lights to be displayed in every statehouse in the nation on the evening of April 18 - and in municipal and county buildings, schools, offices, churches, individual homes and more. The lights are meant to honor and bring to mind Paul Revere's famous ride April 18, 1775, to warn of the approach of British troops prior to the battles of Lexington and Concord.

The "Two Lights for Tomorrow" event is also an opportunity for states and communities to raise awareness about the nation's upcoming 250th through public programs and ceremonies, as well as promote a day of service April 19.

American Legion posts are encouraged to participate in "Two Lights." To learn more about how your post or department can get involved with the America250 initiative, visit your state or territory commission's website at **[america250.org](http://america250.org)**.

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is dated April \_\_, 2025, but made effective for all purposes as of the Effective Date, and is entered into between City of John Day ("Seller"), an Oregon municipal corporation, whose address is 450 East Main Street, John Day, Oregon 97845, and Chuck Skupa ("Buyer"), whose address is \_\_\_\_\_.

### RECITALS:

A. Seller owns certain real property (and all fixtures and improvements located thereon, if any) consisting of approximately 41 acres commonly known as West Industrial Park Road, John Day, Oregon 97845 (the "Land") and more particularly described on the attached Exhibit A.

B. Buyer desires to purchase a portion of the Land (the "Property") for the development, construction, ownership, occupancy, use, and/or operation of a meat processing facility (the "Project"). Subject to the terms and conditions contained in this Agreement, Buyer will purchase the Property from Seller, and Seller will sell the Property to Buyer, for the Project.

### AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions.

Unless defined elsewhere in this Agreement, capitalized terms contained in this Agreement have the meanings assigned to them in the attached Appendix A.

2. Sale of Property.

2.1 Sale of Property; Earnest Money. Subject to the terms and conditions contained in this Agreement, Buyer will purchase the Property from Seller and Seller will sell the Property to Buyer. Subject to the terms and conditions contained in this Agreement, the purchase price for the Property is \$7,806.00 per acre (the "Purchase Price"). Within ten (10) days after the Effective Date, Buyer will pay the Earnest Money to Title Company. Title Company will retain the Earnest Money until paid to Seller in accordance with Section 10.2 or returned to Buyer in accordance with this Agreement. The Earnest Money will not be invested in an interest-bearing deposit account. This Agreement will immediately terminate without further act of the parties if the Earnest Money is not paid when due.

2.2 Payment of Purchase Price. At the Closing, Buyer will pay the Purchase Price as follows: (a) the Earnest Money will be credited toward the Purchase Price; (b) the Utility Credit (\$50,000.00) will be credited toward the Purchase Price (subject to the terms and conditions contained in this Agreement and the Development Agreement); and (c) Buyer will pay Seller the unpaid balance of the Purchase Price by cash, cashier's check, or wire transfer to an account specified by Buyer.

2.3 Proration; Escrow Fees. Subject to the terms and conditions contained in this Agreement, all utilities, rents, taxes, and other similar expenses with respect to the Property will be prorated between Seller and Buyer as of the Closing Date. Seller is a tax-exempt municipal corporation. Notwithstanding anything contained in this Agreement to the contrary, Seller will not pay any real property taxes and/or personal property taxes concerning or related to the Property and/or this Transaction (consistent with ORS 311.410, real property taxes and personal property taxes (if any) will not be pro-rated between Seller and Buyer). Seller and Buyer will each pay

one-half (50%) of any escrow fees charged by Title Company; Buyer will pay all recording fees charged by Title Company. Seller will pay the costs of the Title Insurance.

2.4 AS-IS Transaction. **NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT PROVIDING OTHERWISE, BUYER ACKNOWLEDGES AND AGREES THAT (a) BUYER IS BUYING THE PROPERTY "AS IS," "WHERE IS," AND "WITH ALL FAULTS AND DEFECTS" AS OF THE CLOSING DATE, AND (b) BUYER ACCEPTS THE PROPERTY IN ITS "AS-IS" AND "WITH ALL FAULTS AND DEFECTS CONDITION" AS OF THE CLOSING DATE. SELLER HAS NO OBLIGATION TO REPAIR, ALTER, CONSTRUCT, IMPROVE, AND/OR CORRECT ANY PROPERTY CIRCUMSTANCES, CONDITIONS, AND/OR DEFECTS. BUYER ACKNOWLEDGES AND AGREES THAT SELLER DISCLAIMS (y) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, AND (z) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. BUYER ASSUMES RESPONSIBILITY AND RISKS OF ALL PROPERTY DEFECTS AND/OR CONDITIONS. BUYER IS MAKING BUYER'S OWN DETERMINATION REGARDING THE PROPERTY'S VALUE AND/OR USE. BUYER ACKNOWLEDGES AND AGREES THAT THIS DISCLAIMER HAS BEEN SPECIFICALLY NEGOTIATED AND IS A MATERIAL INDUCEMENT TO SELLER'S AGREEMENT TO SELL THE PROPERTY TO BUYER.**

Buyer Initials: \_\_\_\_\_

2.5 Property Identification.

2.5.1 Subject to the terms and conditions contained in this Agreement, within thirty (30) days after the Effective Date (the "Identification Period"), Buyer will identify that portion of the Land Buyer desires to purchase from Seller (i.e., the Property). The Land identified by Buyer will include only that portion of the Land Buyer determines reasonably necessary for the Project (which may take into consideration all applicable Project development requirements under the Laws (e.g., drainage facilities, water facilities, sewer facilities, and/or other conditions of approval).

2.5.2 Buyer will provide Seller written notice (the "Selection Notice") of its proposed Property configuration for Seller's review and approval (which Selection Notice will be accompanied by a survey of Buyer's proposed Property configuration). Within thirty (30) days after Seller's receipt of the Selection Notice (the "Review Period"), Seller will provide Buyer written notice of its approval or disapproval of Buyer's proposed Property configuration (the "Selection Response").

2.5.3 If Seller disapproves of Buyer's proposed Property configuration (as identified in the Selection Response), (a) Seller will identify the basis for disapproval, and (b) Seller and Buyer will exercise their commercially reasonable efforts to identify and agree upon the Property's configuration within thirty (30) days after Seller's issuance of the Selection Response (the "Review Period"). If Seller and Buyer are unable to identify and mutually agree upon the Property's configuration within the Review Period, this Agreement will terminate without further act of the parties, in which event the Earnest Money will be returned to Buyer and thereafter neither party will have any further rights, remedies, and/or obligations with respect to the Land and/or Transaction other than as provided in Section 5.3.

2.5.4 If Seller and Buyer agree on the Property's configuration in accordance with this Section 2.5, Seller and Buyer will amend this Agreement to identify and describe the agreed upon Property configuration. The date upon which Buyer and Seller mutually agree upon the Property's configuration will be deemed the "Identification Date." Notwithstanding anything contained in this Agreement to the contrary, Buyer will have no rights and/or interests in and/or to that portion of the Land not part of the Property. Notwithstanding anything contained in this Agreement providing otherwise, Buyer will not perform any Invasive Testing concerning the Property unless and until (a) Seller provides Buyer prior written consent to perform the Invasive Testing (subject to and in accordance with this Agreement), and (b) Seller and Buyer have mutually agreed upon the Property configuration in writing in accordance with this Section 2.5.

3. Seller Representations and Warranties.

**Except for Seller's express representations and warranties contained in this Section 3, (a) Seller expressly excludes all representations and warranties with respect to the Property and/or Transaction, express and implied, including, without limitation, warranty of merchantability, warranty of fitness for a particular purpose, warranties regarding consumer products as defined in the Magnusson-Moss Warranty Act or Uniform Commercial Code, and all representations or warranties that may have arisen from course of dealing or usage of trade, and (b) Seller is selling the Property to Buyer AS IS, WHERE IS, AND WITH ALL FAULTS AND DEFECTS, in its condition as of the Closing Date.** Subject to the immediately preceding sentence, Seller represents and warrants to Buyer as follows:

3.1 Authority and Binding Obligation. Subject to the conditions of closing provided under Section 9.2, (a) Seller has full power and authority to sign and deliver this Agreement and to perform all Seller's obligations under this Agreement, (b) the execution, delivery, and performance of this Agreement, and any agreement contemplated herein, constitutes a valid and binding agreement of Seller, enforceable in accordance with its terms, and (c) the delivery and performance of this Agreement, and any agreement contemplated herein, will not result in a breach or violation of, nor constitute a default under, any agreement, law, judgment, and/or order, and/or require the consent, authorization, and/or approval of any person, including, without limitation, any governmental body.

3.2 Title to Property. Except for the Permitted Encumbrances, Seller has good title to the Property, free and clear of all Encumbrances. Seller will transfer and convey the Property to Buyer free and clear of all Encumbrances, except the Permitted Encumbrances.

3.3 No Brokers or Finders. Seller has not incurred any liability or obligation, whether contingent or otherwise, for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement and/or the Transaction.

3.4 Accuracy of Representations and Warranties. None of Seller's representations or warranties contains or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary to make the statements contained herein not misleading.

4. Buyer Representations; Warranties; and Covenants.

In addition to all other Buyer representations, warranties, and/or covenants contained in this Agreement, Buyer represents, warrants, and covenants to Seller as follows:

4.1 Authority; Binding Obligation; No Conflicts. Buyer has full power and authority to sign and deliver this Agreement and to perform all Buyer's obligations under this Agreement. The execution, delivery, and performance of this Agreement, and any agreement contemplated herein, constitutes a valid and binding agreement of Buyer, enforceable in accordance with its terms. Buyer's execution, delivery, and performance of this Agreement, and any agreement contemplated herein, will not result in a breach or violation of, nor constitute a default under, any agreement, law, judgment, and/or order, and/or require the consent, authorization, and/or approval of any person, including, without limitation, any governmental body.

4.2 Buyer Sophistication; Financial Condition.

4.2.1 Buyer has knowledge and experience in real estate and land use matters necessary to make Buyer capable of evaluating the merits and risks of the Transaction, entering into this Agreement, and purchasing the Property. Buyer has had the opportunity to ask questions and receive answers concerning the Property, Transaction, this Agreement, and all other information deemed necessary or appropriate by Buyer concerning Buyer's acquisition of the Property and Transaction. Buyer has obtained all information desired in connection with this Agreement, the Property, and/or the Transaction. Buyer has entered into this Agreement based on its own examination, personal knowledge, and opinion of the Property's value. Buyer has not relied on any representations or warranties made by Seller other than those provided under Section 3 of this Agreement.

4.2.2 As of the Effective Date and Closing Date, Buyer has sufficient assets and financial resources to close the Transaction and perform its obligations under this Agreement and the Development Agreement. Seller is not relying on any contingent source of funds. Buyer is not aware of any facts or circumstances that will result in a material adverse change in Buyer's financial condition.

4.2.3 Without otherwise limiting this Section 4.2, Buyer has reviewed and examined the Property's condition of title and is fully satisfied with Buyer's review and examination, including, without limitation, a careful review and examination of the Title Report. At the Closing, Buyer will accept the Property subject to all Permitted Encumbrances.

4.3 Development Agreement; System Development Charges. Subject to Section 2.5, Buyer will partition the Land to "establish" the Property as a separate legal lot of record. Buyer will complete (and submit, as appropriate), at Buyer's cost and expense, all surveys, applications, and documents necessary or appropriate to establish the Property as a separate legal lot of record, including, without limitation, preparation and submission of all land use and/or other applications. If the Closing occurs, (a) Buyer will enter into the Development Agreement with Seller at the Closing, (b) Buyer will timely pay all system development charges applicable to the purchase of the Property and/or construction/ownership of the Building, (c) Buyer will install utilities at Buyer's cost and expense (Buyer must have engineered drawings for utilities approved by Seller before proceeding with any construction of utilities), (d) Buyer will obtain all licenses, permits, and approvals necessary to construct, own, and operate the Building and/or Business, and (e) Buyer will complete construction of the Building within three years after the Closing Date in accordance with the Development Agreement.

4.4 No Brokers or Finders; Accuracy. Buyer has not incurred any liability or obligation, whether contingent or otherwise, for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement and/or the Transaction. None of Buyer's representations or warranties contains or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make the statements contained herein not misleading.

## 5. Buyer's Due Diligence.

5.1 Property Inspection. Buyer will have thirty (30) days commencing from the Identification Date (the "Due Diligence Period") within which to complete an inspection and examination of the Property for the purpose of Buyer's investigation of the Property and decision to consummate the Transaction. This inspection and examination may include, without limitation, an inspection and examination of the following: (a) the Property's physical condition; (b) the presence or absence of any hazardous substances; (c) the availability of government permits and approvals, including, without limitation, the Building Permit; (d) the feasibility of the Property for Buyer's intended purpose; and/or (e) Seller's contracts, governmental authorizations, and any other documentation directly related to the Property. Seller will, during Seller's regular business hours, in a manner that does not unreasonably interfere with Seller's operations, and at no cost and expense to Seller, assist Buyer in Buyer's performance of its due diligence investigation. This Agreement will automatically terminate and the Earnest Money returned to Buyer unless Buyer provides written notice to Seller prior to expiration of the Due Diligence Period stating that Buyer is satisfied with the results of Buyer's inspection and examination of the Property under this Section 5.1.

5.2 Invasive Tests. Notwithstanding anything contained in this Agreement to the contrary, Buyer and/or Buyer's Representatives will not be permitted to perform any invasive tests on the Property without Seller's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed. Any damage to the Property caused by Buyer and/or Buyer's Representatives in connection with Buyer's and/or Buyer's Representatives entry, survey, test, and/or investigation of the Property will be repaired or restored, at Buyer's cost and expense, to the same or similar condition to which the Property existed prior to the damage. Buyer will maintain and cause Buyer's Representatives to maintain casualty insurance and commercial general liability insurance with coverages of no less than \$1,000,000.00 for injury or death to any one person, \$3,000,000.00 for injury or death to more than one person, and \$1,000,000.00 with respect to property damage. Buyer will deliver

proof of the insurance coverage required under this Section 5.2 to Seller (in the form of a certificate of insurance) prior to Buyer and/or Buyer's Representatives entry onto the Property.

6. Seller Covenants Before Closing.

In addition to any other Seller covenant contained in this Agreement, Seller covenants to Buyer as follows before the Closing:

6.1 Restriction on Transfer. Until the Closing or earlier termination of this Agreement, Seller will not sell or convey the Property without the prior written consent of Buyer.

6.2 Filings; Notices; Consents. Seller will make all filings and give all notices that Seller is required to make and give to close the Transaction. Seller will reasonably cooperate with Buyer with respect to all consents, authorizations, and approvals that Buyer is required to obtain to close the Transaction, subject to applicable Laws.

7. Buyer Covenants Before Closing.

In addition to any other Buyer covenant contained in this Agreement, Buyer covenants to Seller as follows before the Closing:

7.1 Notification. Until the Closing or earlier termination of this Agreement, Buyer will promptly notify Seller if Buyer obtains Knowledge of (a) any breach by Buyer of any representation or warranty provided by Buyer under this Agreement, (b) the occurrence after the Effective Date of any fact or condition that would cause Buyer to breach any representation or warranty under this Agreement if the representation or warranty were made by Buyer as of the date of the occurrence, (c) any breach by Buyer of any covenant contained in this Agreement, and/or (d) any event or information that makes the satisfaction of any condition under Section 8 or Section 9 impossible or unlikely.

7.2 Filings; Notices; Consents. Buyer will make all filings and give all notices that Buyer is required to make and give to close the Transaction. Buyer will cooperate with Seller with respect to all filings and notices that Seller is required to make and give to close the Transaction. Buyer will use commercially reasonable efforts to obtain all consents, authorizations, and approvals that Buyer is required to obtain to close the Transaction. Buyer will cooperate with Seller with respect to all consents, authorizations, and approvals that Seller is required to obtain to close the Transaction. Buyer will use commercially reasonable efforts to cause the conditions in Section 8 to be satisfied.

7.3 Utility Construction. Contemporaneously with Buyer's due diligence inspection and examination of the Property or as soon thereafter as practical, Buyer will make application to Grant County for a building permit concerning the construction of the Building (the "Building Permit"), which Building Permit must be reviewed and approved by Seller. Buyer will complete and submit all necessary documents Seller may require concerning the Building Permit and will pay all application, permit, and processing fees necessary to procure the Building Permit.

8. Conditions to Buyer's Closing Obligations.

Buyer's obligation to purchase the Property and close the Transaction is conditioned on the satisfaction by Seller or waiver by Buyer of each of the following conditions:

8.1 Accuracy and Covenants. Each of Seller's representations and warranties contained in this Agreement must be accurate in all material respects as of the Effective Date and must be accurate in all material respects as of the Closing Date. Seller must have performed and complied in all material respects with each of Seller's covenants contained in this Agreement.

8.2 Closing Documents. Seller must have caused the following items to be delivered to Buyer: (a) the items set forth in Section 10.3; (b) a commitment from Title Company to issue the Title Insurance to Buyer; and (c) the Closing Documents.

8.3 Due Diligence. Buyer's satisfactory completion of Buyer's due diligence investigations described under Section 5.1 and Section 5.2.

9. Conditions to Seller's Closing Obligations.

Seller's obligation to sell the Property to Buyer and close the Transaction is condition on the satisfaction by Buyer or waiver by Seller of each of the following conditions:

9.1 Accuracy; Covenants. Each of Buyer's representations and warranties contained in this Agreement must be accurate in all material respects as of the Effective Date and must be accurate in all material respects as of the Closing Date. Buyer must have performed and complied in all material respects with each of Buyer's covenants contained in this Agreement.

9.2 Closing Documents. Buyer must have caused the following documents or items to be delivered to Seller and Seller must have approved such documents or items: (a) those items set forth in Section 10.2; and (b) the Closing Documents. Seller must have completed or satisfied all conditions and/or requirements under applicable federal, state, and local laws, regulations, and ordinances to sell the Property to Buyer, including, without limitation, ORS 221.725 and ORS 271.310

10. Closing.

10.1 Closing. The Closing will take place at the offices of Title Company on or before the Drop Dead Date or any other place or time that the parties may agree in writing.

10.2 Buyer - Closing Obligations. At the Closing, Buyer will deliver the following: (a) Buyer will deliver to Seller the Purchase Price by cash, cashier's check, certified check, or wire transfer to an account specified by Seller; (b) a certified check signed by Buyer for any prorated expenses with respect to the Property, if applicable, to the extent that prorations may be made at the Closing; and (c) the Transaction Documents.

10.3 Seller - Closing Obligations. At the Closing, Seller will deliver the following to Buyer: (a) the Warranty Deed; (b) the Transaction Documents; (c) possession of the Property; and (d) a commitment from Title Company to issue the Title Insurance to Buyer.

10.4 Title Insurance and Warranty Deed. Within 30 days after the Closing Date, Title Company will furnish Buyer with the Title Insurance at Seller's cost and expense. On the Closing Date, Seller will execute and deliver the Warranty Deed to Buyer.

10.5 Development Agreement. Contemporaneously with the Closing, Buyer and Seller will enter into a certain development agreement concerning, among other things, the construction and installation of the Industrial Building (the "Development Agreement"). Buyer will pay all system development charges applicable to the purchase of the Property and/or construction/ownership of the Building. Buyer must have engineered drawings for utilities approved by city before performing work and will pay for the cost of work.

11. Default and Indemnification.

11.1 Seller Default. Subject to the terms and conditions contained in this Agreement, Seller will be in default under this Agreement if Seller breaches and/or otherwise fails to perform any Seller representations, warranties, covenants, and/or obligations contained in this Agreement. Upon occurrence of Seller's default, Buyer may (a) terminate this Agreement and receive a return of the Earnest Money, or (b) file a lawsuit for specific

performance. Seller acknowledges and agrees that the remedies available at law for any breach of this Agreement by Seller will, by their nature, be inadequate. Accordingly, Buyer may obtain injunctive relief or other equitable relief to restrain a breach or threatened breach of this Agreement or to specifically enforce this Agreement, without proving that any monetary damages have been sustained. Buyer may only pursue a claim for specific performance of this Agreement if a complaint is filed with the court and served on Seller within 90 days following the event of default. If a complaint for specific performance is not timely filed and served, then Buyer's remedies will be limited to the termination of this Agreement and return of the Earnest Money. Notwithstanding anything contained in this Agreement to the contrary, in no event will Seller be liable to Buyer for any other damages arising out of or related to this Agreement and/or the Transaction, including, without limitation, special or consequential damages, loss of financing, loss of use, income, profit, and/or increases in interest rates.

11.2 Buyer Default. Except as otherwise provided in this Agreement, if Buyer breaches and/or otherwise fails to perform any of Buyer's representations, warranties, covenants, and/or obligations contained in this Agreement, time of payment and performance being of the essence, Seller will receive the Earnest Money and Seller will have all remedies available at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently. Buyer acknowledges and agrees that the remedies available at law for any breach of this Agreement by Buyer will, by their nature, be inadequate. Accordingly, Seller may obtain injunctive relief or other equitable relief to restrain a breach or threatened breach of this Agreement or to specifically enforce this Agreement, without proving that any monetary damages have been sustained. A default by Buyer under this Agreement constitutes a default by Buyer under all Transaction Documents. A default by Buyer under any Transaction Document constitutes a default by Buyer under this Agreement.

11.3 Prior Notice of Default. Prior to declaring a party in default under this Agreement, the non-defaulting party will provide the alleged defaulting party prior written notice of the alleged default (the "Default Notice"), which Default Notice will specify with reasonable particularity the default the non-defaulting party believes exists. Commencing on the alleged defaulting party's receipt of the Default Notice, the alleged defaulting party will have 10 days within which to cure or remedy the alleged default(s) (the "Cure Period"); provided, however, if the nature of the default(s) is such that it cannot be completely remedied or cured within the Cure Period, there will not be a default by the alleged defaulting party under this Agreement if the alleged defaulting party begins correction of the default within the Cure Period and thereafter proceeds with reasonable diligence to effect the remedy as soon as practicable. Notwithstanding anything contained in this Agreement to the contrary, no Default Notice will be required to be provided by Seller if Buyer fails to timely pay the Consideration.

11.4 Buyer Indemnification. Buyer will defend, indemnify, and hold Seller and each Seller Representative harmless for, from, and against all Damages resulting from or arising out of the following: (a) Buyer's breach and/or failure to perform any Buyer representation, warranty, covenant, and/or obligation contained in this Agreement and/or any other Transaction Document; (b) Buyer's obligations under the Lease; and/or (c) Buyer's use, ownership, development, sale, lease, and/or operation of the Property. Buyer's indemnification obligations under this Section 11.4 will survive the Closing (and will not merge with or into the Warranty Deed) or earlier termination of this Agreement.

11.5 Hazardous Waste – Buyer Indemnification. Buyer releases and will defend, indemnify, and hold Seller and Seller's Representatives harmless for, from, and against all Damages which may be assessed against Seller and/or Seller's Representatives by federal and/or state governmental authorities concerning and/or involving the use, storage, handling, transportation, treatment, disposal, and/or release of any Hazardous Substances on and/or about the Property. This includes, without limitation, all attorney fees and remedial costs and expenses. Buyer's indemnification obligations under this Section 11.5 will survive the Closing (and will not merge with or into the Warranty Deed) or earlier termination of this Agreement.

## 12. Miscellaneous.

12.1 Statutory Warning. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND



REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

**12.2 Expenses; Assignment; Binding Effect.** Except as otherwise provided in this Agreement, each party will bear the party's own fees, costs, and expenses incurred in connection with the Transaction, including, without limitation, the preparation, negotiation, signing, and performance of this Agreement and the other agreements and documents relating to the Transaction. Time is of the essence with respect to all dates and time periods in this Agreement. Buyer will not assign and/or delegate any of Buyer's rights and/or obligations under this Agreement and/or any other Transaction Document to any person without Seller's prior written consent. Subject to the assignment restrictions contained in this Section 12.2, this Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. Notwithstanding anything contained in this Agreement to the contrary, all Buyer's representations, warranties, and/or covenants contained in this Agreement will survive the Closing and not merge with or into the Warranty Deed.

**12.3 Notices; Amendment; Severability.** Any notice required under this Agreement must be in writing. Any notice will be deemed given when personally delivered by a professional messenger service or via commercial overnight air courier, delivered by facsimile or other electronic transmission (at the email addresses provided below) (with electronic confirmation of delivery), or will be deemed given three business days following delivery of the notice by U.S. mail, postage prepaid, certified, return receipt requested, by the applicable party to the address of the other party first shown above (or any other address that a party may designate by notice to the other party), unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed given on the next following business day. This Agreement may be amended only by a written document signed by the party against whom enforcement is sought. No waiver will be binding on a party unless it is in writing and signed by the party making the waiver. A party's waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired. For purposes of notices under this Agreement, Buyer's email address is \_\_\_\_\_; Seller's email address is \_\_\_\_\_ with a copy to Jeremy M. Green, Esq., green@bljlawyers.com.

**12.4 Further Assurances; Termination; Attachments.** The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. The termination of this Agreement, regardless of how it occurs, will not relieve a party of obligations that have accrued before the termination. Any exhibits, schedules, and other attachments referenced in this Agreement are part of this Agreement. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action, suit, or proceeding arising out of the subject matter of this Agreement will be litigated in courts located in Grant County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Grant County, Oregon. This Agreement may be signed in counterparts.

12.5 Attorney Fees; Discretion. If any arbitration, action, suit, and/or proceeding is instituted to interpret, enforce, and/or rescind this Agreement, or otherwise in connection with the subject matter of this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's attorney fees and other fees, costs, and expenses of every kind, including, without limitation, the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. Except as expressly provided otherwise in this Agreement, whenever the approval or consent of either Seller or Buyer is required under this Agreement, such consent will not be unreasonably withheld, conditioned, and/or delayed.

12.6 Entire Agreement; Interpretation. This Agreement and the Transaction Documents contain the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. If a date for performance of an obligation or delivery of any notice hereunder falls on a day other than a business day, the date for such performance or delivery of such notice will be postponed until the next ensuing business day. For purposes of this Agreement, a "business day" means a normal working day (i.e., Monday through Friday of each calendar week, exclusive of Federal and state holidays and one day following each of Thanksgiving, Christmas, and New Year's); the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm, association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity.

12.7 Dispute Resolution. If any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), Seller and Buyer will exert their best efforts to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, the Dispute will be settled by arbitration before a single arbitrator in John Day, Oregon. If the parties agree on an arbitrator, the arbitration will be held before the arbitrator selected by the parties. If the parties do not agree on an arbitrator, each party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of real estate law. The arbitration will be conducted in accordance with the then-current rules of the Arbitration Service of Portland, Inc. The resolution of any controversy or claim as determined by the arbitrator will be binding on the parties and judgment upon the award rendered may be entered in any court having jurisdiction. A party may seek from a court an order to compel arbitration, or any other interim relief or provisional remedies, pending an arbitrator's resolution of any controversy or claim. The prevailing party in the arbitration will be entitled to recover from the other party all expenses incurred in connection with the arbitration, including reasonable attorney's fees.

12.8 Legal Representation. Seller has employed the law firm of Bryant, Lovlien & Jarvis, P.C., Bend, Oregon ("Law Firm") to prepare this Agreement and all other Transaction Documents. Law Firm represents only Seller in connection with this Transaction. Buyer has thoroughly reviewed this Agreement and all other Transaction Documents with counsel of Buyer's choosing or has knowingly waived the right to do so.

[end of agreement – signature page immediately follows]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be effective for all purposes as of the Effective Date.

**SELLER:**

City of John Day,  
an Oregon municipal corporation

**BUYER:**

\_\_\_\_\_  
By: Sherrie Rininger, Mayor

\_\_\_\_\_  
Chuck Skupa

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Appendix A  
Definitions

"Building" means an approximately \_\_\_\_\_ square foot industrial building to be located and constructed by Buyer on the Property.

"Building Permit" has the meaning assigned to such term under Section 7.1.3.

"Business" means the operation of the industrial building as a slaughterhouse and meat processing plant.

"Closing" means the closing of the Transaction.

"Closing Date" means the date on which the Closing takes place.

"Cure Period" has the meaning assigned to such term under Section 11.3.

"Damages" means all claims, actions, proceedings, damages, liabilities, obligations, costs, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees.

"Default Notice" has the meaning assigned to such term under Section 11.3.

"Development Agreement" has the meaning assigned to such term under Section 10.5.

"Due Diligence Period" has the meaning assigned to such term under Section 5.2.

"Drop-Dead Date" means \_\_\_\_\_.

"Earnest Money" means \_\_\_\_\_ (\$\_\_\_\_\_).

"Effective Date" means the last date of the two dates shown beneath the parties' signatures on page 9 of this Agreement.

"Encumbrance(s)" means any lien, mortgage, pledge, security interest, reservation, restriction, adverse claim, and/or other encumbrance.

"Environmental Law(s)" means all applicable federal, state, and/or local statutes, regulations, and/or ordinances, and/or any judicial or other governmental orders pertaining to the protection of health, safety, and/or the environment.

"Hazardous Substance(s)" means any hazardous or toxic substance, material, and/or waste, including (a) any hazardous or toxic substance, material, and/or waste that is defined as such under any environmental law, and (b) petroleum, petroleum products, asbestos, presumed asbestos-contaminating materials, asbestos-contaminating materials, urea formaldehyde, and polychlorinated biphenyls.

"Law(s)" means all applicable federal, state, and local laws, regulations, and ordinances concerning the Property, including, without limitation, the Environmental Laws.

"Law Firm" has the meaning assigned to such term in Section 11.8.

"Lot" means the approximately 41-acre legal lot that Buyer must partition to establish the 24-acre Real Property.

"Permitted Encumbrance(s)" means the following: (a) those exceptions to title identified in the Title Report; (b) all Encumbrances of record as of the Closing Date; and (c) any Encumbrance arising by operation of law for taxes, assessments, and/or government charges not yet due.

"Property" has the meaning assigned to such term in the Recital A and includes the following: (a) all interests, estates, and rights that Seller now has and/or may acquire in the Property; (b) all options, agreements, and contracts for the purchase or sale of all or any part of the Property; (c) all water, mineral, oil, and any other rights and/or interests; and (d) all appurtenances and additions to and substitutions and replacements of the Property.

"Real Property" has the meaning assigned to such term under Recital A.

"Representative(s)" means each present and future officer, director, employee, member, manager, assignee, contractor, agent, and/or authorized representative of the identified party.

"Title Company" means Land Title Company of Grant County, Inc., whose address is 145 NE Dayton Street, John Day, Oregon 97845.

"Title Insurance" means a standard coverage ALTA Owner's Policy of title insurance that (a) covers the Property in the amount of the Purchase Price, and (b) does not contain any exception that is not a Permitted Encumbrance and/or Title Company's standard preprinted exceptions.

"Title Report" means that certain Preliminary Title Report dated March 20, 2025 (Report No. 1), File No. 29292, issued by Title Company attached hereto as Exhibit B.

"Transaction" means the purchase and sale of the Property, all as provided in this Agreement.

"Transaction Document(s)" means this Agreement, Warranty Deed, Trust Deed, Promissory Note, Assignment, Personal Guaranty, and all other documents, agreements, and/or instruments Seller determines necessary for the Transaction.

"Warranty Deed" means the warranty deed conveying the Property to Buyer free and clear of all Encumbrances other than the Permitted Encumbrances, which deed will be in form and substance satisfactory to Seller and Buyer.

Exhibit A  
Legal Description

[attached]

DRAFT

Exhibit B  
Title Report

[attached]

DRAFT



## REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED:			
Ordinance <input type="checkbox"/>	Resolution <input type="checkbox"/>	Motion X	Information <input type="checkbox"/>
Date Prepared: 4/1/25		Dept.: City Manager's Office	
SUBJECT: Appeal of SDC - Densberger		Contact Person for this Item: Melissa Bethel, City Manager, <a href="mailto:bethelm@grantcounty-org.gov">bethelm@grantcounty-org.gov</a> 541 575 0028 ex 4224	

**SUBJECT:** This staff report summarizes an appeal submitted by Joseph V. Densberger regarding the requirement to pay a System Development Charge (SDC) fee for water service at 27499 La Costa, John Day. The applicant argues that the SDC fee should be waived based on a 2002 agreement.

### BACKGROUND:

On December 4, 2002, an agreement was entered into between the City of John Day and Matthew Turner. The agreement granted the City an easement on Tax Lot 13-31-29A 2000 (Lot 2000) in exchange for city water service for both Lot 2000 and Tax Lot 13-31-29A 1900 (Lot 1900). At that time, Title 7, Chapter 8 of the City Code regarding Service Development Charges had not been enacted or approved by the City Council.

Upon issuance of a building permit the City imposed an SDC fee for water service on Lot 2000. Mr. Densberger is appealing the payment of the SDC since no SDC Ordinance was in place at the time of the agreement, and it should not be imposed retroactively.

### Analysis:

#### 1. Existing Agreement & Historical Precedent

- The agreement between the City and Mr. Turner explicitly provided for water service to both Lot 2000 and Lot 1900 in exchange for an easement.
- In 2008, city water service was installed to Lot 1900 without an SDC fee. However, the City's SDC Ordinance did not go into effect until 2009 so SDC's would not have been assessed at that time.
- Nothing in the agreement states it runs with the land, insures to successors or is otherwise assignable.

#### 2. Equity & Financial Considerations

- Section 7-8-1 of the ordinance states that the purpose of the SDC is to fairly distribute the costs of capital improvements for water infrastructure.



- Densberger is asking for an appeal based on the value of the easement granted to the City for water service access and feels the SDC assessment is inequitable.
- Densberger appeal states the City has benefited from the use of two buildable lots for over 23 years, with a potential market value impact exceeding \$100,000.
- Legally, the City may impose any fees which are adopted after the execution of the original agreement.

**FINANCIAL IMPACT:**

Should the Council approve the appeal, the city would refund Mr. Densberger the cost of the water SDC \$2,235.

**ATTACHMENTS:**

- Copy of the original 2002 agreement
- Appeal letter from Joseph V. Densberger

To whom it may concern:

This correspondence is notice of submission of an appeal regarding the recent ruling requiring payment of the System Development Charge (SDC) fee for water service at 27499 La Costa, John Day. Outlined below are the reasons the SDC fee for water service should be waived.

1. On December 4, 2002, the City of John Day and Matthew Turner entered an agreement wherein the City was provided an easement on Tax Lot 13-31-29A 2000 (Lot 2000) in return for water service on both Lot 2000 and Tax Lot 13-31-29A 1900 (Lot 1900). At the time the agreement was made Title 7 - Chapter 8 - Service Development Charges was not enacted and approved by the City Counsel. The City is attempting to subvert the agreement reached with Mr. Turner for Lots 1900 and 2000 in consideration for an easement on Lot 2000 for use the water system supplying the nearby residents with city water. The agreement reached indicated water service for each lot. As no SDC ordinance was in place at the time of the agreement it could not have been taken into account in the negotiation, and, thus, should not be implemented now.
2. City water services were installed and provided access to city water for Lot 1900 in 2008, no SDC was rendered. This is in accordance with the agreement between the City and Mr. Turner.
3. City Ordinance §§7-8-1 - 7-8-18 do not contain any language indicating retroactive applicability nor language establishing it preempts state law regarding contracts.
4. If it is determined an SDC does apply to Lot 2000 for the requested water services, the SDC should total zero. Section 7-8-1 states, "[t]he purpose of the system development charge is to impose an equitable portion of the cost of capital improvements for water and sewer facilities upon those developments that create the need for, or increase the demand on capital improvements, and to create a source of funds to assist in paying for such capital improvements." Assessing an SDC for Lot 2000 would not be equitable as the value received from the easement to the City for providing water services to the area greatly outweighs the costs of providing water services to that same lot.
5. The City has been using property for the past 23 years and has used real property which has been zoned as two buildable lots. The value of the loss of the two buildable lots can only be determined by the open market, but is likely to exceed \$100,000.00.

A copy of original agreement is enclosed for your convenience.

Thank you for your consideration.

Regards,

Joseph V. Densberger

## AGREEMENT

### PARTIES:

**Grantors:** MATTHEW C. TURNER and DAUPHINE D. TURNER, husband and wife,

**Address:**

**Grantee:** THE CITY OF JOHN DAY a municipal corporation of the State of Oregon,

**Address:** 450 East Main Street, John Day, OR 97845

### RECITALS:

This Agreement is entered into because the Grantee, the City of John Day (hereinafter referred to as "City"), desires to receive a perpetual non-exclusive water line easement from the Grantors, as well as a temporary non exclusive waterline easement recorded as Instrument No. 223280 and No. 223279 respectively to place and maintain a City water line and the Grantors, Matthew and Dauphine Turner (hereinafter referred to as "Turners"), desire to receive the installation of a fire hydrant and two water services as described herein and at the location defined herein in exchange for the above identified easements.

### AGREEMENT:

For valuable consideration, the receipt of which is hereby acknowledged the City and Turners agree the following:

The City of John Day shall:

1. Install a fire hydrant on Grant County right-of-way on LaCosta Road in the vicinity of the Turner driveway approach; Grant County, Oregon Tax Lot 13-31-29A 2000.
2. Install one water service and meter stop located on Grant County right-of-way on LaCosta Road accessing Grant County, Oregon Tax Lot 13-31-29A 2000. Install one water service and meter stop at city reservoir site to access Grant County, Oregon Tax Lot 13-31-29A 1900. The City will provide trench excavation from the meter stop to the Turner's pump house on Grant County, Oregon Tax Lot 13-31-29A 1900.
3. Pay for the services of the licensed surveyor that established the legal description for the easements identified herein.

The Turners shall:

1. Convey to the City of John Day a Temporary Non-Exclusive Easement to use a strip of land 40 feet wide located in Grant County, Oregon Township 13 South, Range 31 East of the Willamette Meridian recorded as Instrument #223279, filed November 5, 2002, in the Record of Deeds in Grant County.
2. Convey to the City of John Day a Perpetual Non-Exclusive Easement to use a strip of land as described in easement the centerline of which is located across the real property of Matthew C. and Dauphine D. Turner located in Grant County, Oregon Township 13 South, Range 31 East of the Willamette Meridian recorded as Instrument #223280, filed November 5, 2002, in the Record of Deeds in Grant County.

DATED this 3<sup>rd</sup> day of DECEMBER, 2002.

GRANTOR:

Matthew C. Turner  
Matthew C. Turner

DATED this 3<sup>rd</sup> day of DECEMBER, 2002.

GRANTOR:

Dauphine D. Turner  
Dauphine D. Turner

DATED this 4<sup>th</sup> day of DECEMBER, 2002.

GRANTEE:

Roger Simonsen  
Roger Simonsen, Mayor for the City of John Day

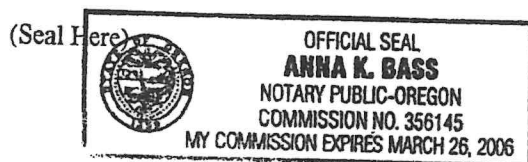
DATED this 4<sup>th</sup> day of DECEMBER, 2002.

GRANTEE:

Peggy Carey  
Peggy Carey, City Manager for City of John Day

STATE OF OREGON, County of Grant ) ss.

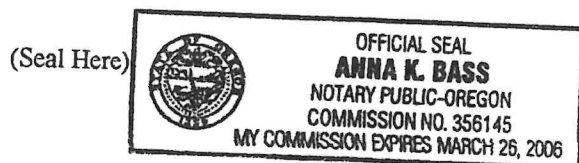
Matthew C. Turner, Grantor, personally appeared before me on the 3<sup>rd</sup> day of DECEMBER, 2002 and acknowledged the foregoing to be his voluntary act and deed.



Anna K. Bass  
Notary Public for Oregon  
My Commission Expires: 3/26/06

STATE OF OREGON, County of Grant ) ss.

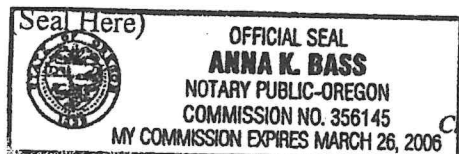
Dauphine D. Turner, Grantor, personally appeared before me on the 3<sup>rd</sup> day of DECEMBER, 2002 and acknowledged the foregoing to be his voluntary act and deed.



Anna K. Bass  
Notary Public for Oregon  
My Commission Expires: 3/26/06

STATE OF OREGON, County of Grant ) ss.

Roger Simonsen, Grantee, personally appeared before me on the 4<sup>th</sup> day of DECEMBER, 2002 and acknowledged the foregoing to be his voluntary act and deed.

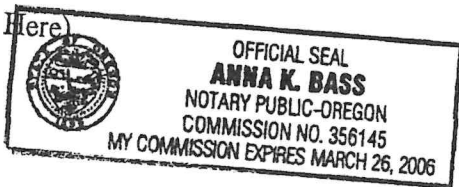


Anna K. Bass  
Notary Public for Oregon  
My Commission Expires: 3/26/06

STATE OF OREGON, County of Grant ) ss.

Peggy Carey, Grantee, personally appeared before me on the 4<sup>th</sup> day of  
DECEMBER, 2002 and acknowledged the foregoing to be her voluntary act and deed.

(Seal Here)



Anna K. Bass  
Notary Public for Oregon  
My Commission Expires: 3/26/06